made by a person or entity other than the reporter shall be available at the same rates, or no more than the actual cost of duplication, whichever is higher.

* * * * *

■ 7. Amend § 3.45, by revising the second and seventh full sentences of paragraph (e) and the second and third full sentences of paragraph (f) to read as follows:

§ 3.45 In camera orders.

* * * * *

(e) * * * A complete version shall be marked *''In Camera''* or ''Subject to Protective Order,'' as appropriate, on every page and shall be filed with the Secretary and served by the party on the other parties in accordance with the rules in this part. * * * An expurgated version of the document, marked ''Public Record'' on every page and omitting the *in camera* and confidential information and attachment that appear in the complete version, shall be filed with the Secretary within 5 days after the filing of the complete version, unless the Administrative Law Judge or the Commission directs otherwise, and shall be served by the party on the other parties in accordance with the rules in this part. * * *

(f) * * * A complete version shall be marked *''In Camera''* or ''Subject to Protective Order,'' as appropriate, on every page and shall be served upon the parties. The complete version will be placed in the *in camera* record of the proceeding. An expurgated version, to be filed within 5 days after the filing of the complete version, shall omit the *in camera* and confidential information that appears in the complete version, shall be marked ''Public Record'' on every page, shall be served upon the parties, and shall be included in the public record of the proceeding.***

* * * * *

■ 8. Amend § 3.52, by revising the fourth sentence of paragraph (a)(1), the first sentence of paragraph (a)(2), and the fourth sentence of paragraph (b)(2) to read as follows:

§ 3.52 Appeal from initial decision.

(a) * * *

(1) * * * Unless the Commission orders that there shall be no oral argument, it will hold oral argument within 10 days after the deadline for the filing of any reply briefs. * * *

(2) If no objections to the initial decision are filed, the Commission may in its discretion hold oral argument within 10 days after the deadline for the filing of objection, * * *

(b) * * *

(2) * * * Unless the Commission orders that there shall be no oral argument, it will hold oral argument within 15 days after the deadline for the filing of any reply briefs. * * *

* * * * *

■ 9. Amend § 3.83, by revising paragraph (i) to read as follows:

§ 3.83 Procedures for considering applicants.

* * * * *

(i) *Judicial review.* Judicial review of final Commission decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

* * * * *

PART 4—MISCELLANEOUS RULES

■ 1. The authority for part 4 remains:

Authority: 15 U.S.C. 46, unless otherwise noted.

■ 2. Amend § 4.2(b), by revising the last sentence, to read as follows:

§ 4.2 Requirements as to form, and filing of documents other than correspondence.

* * * * *

(b) * * * Every page of each such document shall be clearly and accurately labeled ''Public'', *''In Camera''* or ''Confidential''.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–21019 Filed 8–19–11; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM07–9–004; Order No. 710–C]

Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on Rehearing.

SUMMARY: In this Order, the Federal Energy Regulatory Commission (Commission) generally denies rehearing and reaffirms the findings made in Order No. 710–B. The Commission does, however, revise the burden estimate to more accurately account for initial start-up costs, grant rehearing on the issue of whether to include page 521d, and grant additional time to comply with Order No. 710–B.

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SUPPLEMENTARY INFORMATION:

Before Commissioners: Jon Wellinghoff, Chairman; Marc Spitzer, Philip D. Moeller, John R. Norris, and Cheryl A. LaFleur.

Order on Rehearing

Issued August 16, 2011

1. Earlier in this proceeding, the Commission issued a Final Rule (Order No. 710–B) revising its financial forms, statements, and reports for natural gas companies, contained in FERC Form Nos. 2, 2–A, and 3–Q, to provide greater transparency on fuel data by requiring the reporting of functionalized fuel data on pages 521a through 521c of those forms, and to include on those forms the amount of fuel waived, discounted or reduced as part of a negotiated rate agreement.[1]

2. In response to the Final Rule, the Interstate Natural Gas Association of America (INGAA) filed a request for rehearing raising eleven separate objections to the Final Rule. In this order on rehearing, we generally deny rehearing and reaffirm the findings we made in Order No. 710–B. We do, however, revise the burden estimate to more accurately account for initial start-up costs, grant rehearing on the issue of whether to include page 521d and we grant filers additional time before they must begin filing Form Nos. 2, 2–A, and 3–Q in accordance with the requirements established in Order No. 710–B and this rehearing order.

I. Background

3. This matter began in 2008, when the Commission issued a Final Rule (Order No. 710) revising its financial forms, statements, and reports for natural gas companies, contained in

[1] *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines,* Order No. 710–B, 76 FR 4516 (Jan. 26, 2011), 134 FERC ¶ 61,033 (2011) (Order No. 710–B or Final Rule).

FERC Form Nos. 2, 2–A, and 3–Q, to make the information reported in these forms more useful by updating them to reflect current market and cost information relevant to interstate natural gas pipelines and their customers.[2] The information provided in these forms included data on fuel use, but did not require these data to be functionally disaggregated.

4. On rehearing, the American Gas Association (AGA) argued that the fuel data would be more useful if such data were broken out by different pipeline functions, including transportation, storage, gathering, and exploration/production, and should include, by function, the amount of fuel waived, discounted or reduced as part of a negotiated rate agreement. This argument was rejected in Order No. 710–A,[3] but was reconsidered in a Notice of Proposed Rulemaking issued on June 17, 2010.[4] AGA supported the Commission's proposal while INGAA opposed it. After considering all the comments and reply comments, the Commission issued a Final Rule adding additional transparency to the reporting of fuel data. Specifically, the Final Rule revised FERC Form Nos. 2, 2–A, and 3–Q, revising pages 521a, 521b, and page 520, and adding page 521c to FERC Form Nos. 2, 2–A, and 3–Q to include functionalized fuel data, including the amount of fuel waived, discounted or reduced as part of a negotiated rate agreement.[5]

5. In response to the Final Rule, INGAA filed a request for rehearing reiterating many of the concerns that it raised earlier in the proceeding (in its comments and reply comments on the June 2010 NOPR).

II. Discussion

A. Overview

6. INGAA raises eleven separate objections to the Final Rule. First, INGAA argues that Order No. 710–B erred by finding that reporting of functionalized fuel data by contract rate category does not require tracking of fuel by individual contracts. Second, INGAA argues that adding this level of detail increases the reporting burden. Third, INGAA argues that the Commission erred by not adopting its alternative proposal which it maintains would have met the Commission's needs with a lesser burden to filers. Fourth, INGAA claims that the requirement to allocate lost and unaccounted for gas (LAUF) among negotiated, discounted and recourse transportation customers ignores fundamental nature of LAUF, forcing an allocation that is meaningless. Fifth, INGAA argues that the requirement to disclose the disposition of excess gas or gas acquired to meet deficiencies by contract rate category also is meaningless. Sixth, INGAA reiterates its objection to reporting discounted rates as a separate category, claiming that disclosing this information does not serve any regulatory purpose because pipelines are prohibited from discounting. Seventh, INGAA argues that the Commission erred by not granting the clarification requested by MidAmerican[6] (that the rule should only cover (1) contracts with discounted and negotiated fuel rates and (2) headings should be changed to be ''discounted fuel rate'' and ''negotiated fuel rate''). INGAA argues this would be less burdensome but would accomplish the Commission's stated goals. Eighth, INGAA argues that the Commission erred by assuming that MidAmerican's proposal would have excluded many contracts that otherwise would be reported. Ninth, INGAA argues that the Final Rule orders the collection of data too soon and that data under the new categories should not be required to be collected until calendar year 2012. Tenth, INGAA requests clarification that ''backhaul service offered under tariff'' means that, if tariff does not include a ''backhaul'' rate schedule, then nothing need be reported for this. Finally, INGAA argues that the Commission should keep blank page 521d, which was included in the June 2010 NOPR and omitted in the Final Rule. We will now examine each of these arguments.

B. Does the Final Rule Require the Tracking of Individual Contracts?

7. INGAA argues that Order No. 710–B erred by finding that reporting of functionalized fuel data by contract rate category does not require the tracking of fuel by individual contracts.

8. INGAA states that, in Order No. 710–B, the Commission found that the reporting of functionalized fuel data by contract rate category does not require the tracking of fuel by individual contracts. INGAA disputes this finding and argues that such tracking would be necessitated, despite the Commission's finding to the contrary. We reject this interpretation. As we stated in Order No. 710–B, at paragraph 74:

> In this Final Rule, the Commission is not imposing any additional reporting requirements that change how those pipelines track fuel. Pipeline billings are provided on an integrated basis, accounting for sales based on whether the volumes are negotiated, recourse, or discounted. Moreover, contrary to INGAA's assertions, the Commission is not requiring pipelines to track fuel by individual contracts, but merely continuing the current practice of requiring the assignment of fuel based on an allocation of throughput or stated fuel rate. The revisions to page 521a through 521c require the same accounting mechanism for fuel, enabling parties to better understand how fuel use costs are assigned.

9. Thus, it can be seen that, if a pipeline has twelve gas service contracts, the Final Rule is not requiring the pipeline to report the details of each of those contracts. Instead, the Final Rule is requiring the pipeline to report the totals for fuel (for all twelve contracts) by function which can be determined on an allocation of throughput or stated fuel rate. To accomplish this, however, the pipelines would need to continue their current practice of assessing shippers for services provided to each customer.

C. Reporting Burden

10. INGAA argues that adding the level of detail required by the Final Rule increases the reporting burden. In light of INGAA's concerns, we have further reviewed the burden estimate contained in the Final Rule and have determined that we can improve the accuracy of our burden estimate if we distinguish between the initial start-up costs, which include all of the work needed to identify and create a mechanism to report the information required to be reported under the Final Rule, as compared to the ongoing costs of reporting the information required to be reported under the Final Rule once the reporting mechanism is in place. This revised burden estimate is shown below in the Information Collection Statement that begins at paragraph 28 of this order.

D. INGAA's Alternative Proposal

11. INGAA argues that the Commission erred by not adopting its alternative proposal which it maintains would have met the Commission's

[2] *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines, final rule,* Order No. 710, FERC Stats. & Regs. ¶ 31,267 (2008) (Order No. 710).

[3] *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines, order on reh'g and clarification,* Order No. 710–A, 123 FERC ¶ 61,278 (2008).

[4] *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines,* Notice of Proposed Rulemaking, 75 FR 35700 (June 23, 2010), FERC Stats. & Regs. ¶ 32,659 (June 17, 2010) (June 2010 NOPR).

[5] Order No. 710–B, 134 FERC ¶ 61,033, at P 1, 7, 37. The Final Rule has a more complete discussion of the procedural history of this case. We will not reiterate that complete history here.

[6] In this proceeding, we are referring to Northern Natural Gas Company and Kern River Gas Transmission Company, collectively, as MidAmerican.

needs with a lesser burden to filers. The Commission addressed this issue in Order No. 710–B, where we stated:

> We find that requiring the reporting of fuel costs and revenues by rate structure broken down by function will increase the ability of the Commission and interested parties to assess whether a pipeline's existing shippers are subsidizing the pipeline's negotiated rate program. Thus, we find that INGAA's proposal would effectively delete much of the valuable information sought in the June 2010 NOPR.[7]
>
> The revised forms also will now allow the user to better determine where on the pipeline system fuel costs are being incurred and how they are being allocated. This added transparency, which is supported by the majority of the commenters, will ensure that the Commission and pipeline customers have sufficient information to be able to assess the justness and reasonableness of pipeline rates. The collection and public availability of this information is consistent with our goal of having sufficient information to allow the Commission and pipeline customers to assess the impact on pipeline rates of changing fuel costs.[8]
>
> By contrast, if we adopted INGAA's suggestion to limit the revisions to FERC Form No. 2 to those originally proposed by AGA, then the benefits of increased transparency of rates, particularly within the negotiated rate program, which are described in the two preceding paragraphs, would not be fully realized.[9]

12. INGAA's rehearing reiterates arguments it advanced earlier in this proceeding that, for the reasons quoted above, the Commission rejected in Order No. 710–B. We reaffirm those findings and reject INGAA's proposal.

E. Allocations of Fuel Used in Compressor Stations, LAUF, and Fuel Used in Operations

13. INGAA argues that Order No. 710–B suggests that fuel consumed in compressor stations, LAUF and fuel used in operations, which are all drawn from a commingled and fungible gas stream, can be traced back to individual shipper contracts. INGAA further argues that the requirement to allocate LAUF among negotiated, discounted and recourse transportation customers ignores fundamental nature of LAUF, forcing an allocation that is meaningless. INGAA also argues that, except in some limited and unique circumstances, such tracing is impractical, if not impossible.[10]

14. The reporting requirements established in the Final Rule do not require fuel use to be traced back to individual shipper contracts.[11] The information reported on pages 521a and 521b—even before issuance of the Final Rule—already included a requirement for pipelines to report monthly fuel use by Dth. The Final Rule added the requirement for pipelines (on lines 1–65 on pages 521a and 521b) to allocate these totals among discounted rates, negotiated rates, and recourse rates. The Final Rule did not impose a requirement that these allocations be made based on a review of individual contracts. One reasonable approach would be to take the total volume of throughput and allocate it among the three contract categories (*i.e.,* contracts with discounted rates, contracts with negotiated rates, and contracts with recourse rates) based on the percentage of gas transported for each contract type, which is already known and available to a pipeline for invoicing shippers on a monthly basis. For example, if, hypothetically, a pipeline has a monthly transportation volume of 1000 Dth and 5 percent of its volume is associated with contracts with discounted rates, 10 percent is associated with negotiated rates contracts, and 85 percent associated with recourse rate contracts, then the pipeline could develop an allocation of fuel used at compressor stations, LAUF, and gas used in operations based on a ratio of the throughput. Such an allocation could be used for all the various allocations needed to complete pages 521a and 521b. Thus, it is evident that we are not *requiring* pipelines to assess individual contracts to make this allocation.

15. In addition, while admittedly imperfect, allocating costs by function is a standard practice for pipelines for numerous cost categories. The allocation of fuel consumed in compressor stations, LAUF and fuel used in operations, and among negotiated, discounted and recourse transportation customers are a few, among many, of such cost allocations. The allocation of costs is a standard practice for pipeline companies to bill their customers for services rendered. The fact that such allocations are not 100 percent precise does not negate the necessity for such allocations being made. Pipelines collect fuel (including LAUF) from customers and the Final Rule requires the reporting of how that fuel is assigned.

16. INGAA's position is that the allocation of fuel costs required by this rule is ''meaningless'' given the nature of LAUF as gas that is lost and unaccounted for.[12] We disagree. In our view, allowing customers to see exactly how fuel costs are assigned to various customers groups is important because it allows customers to assure themselves that the fuel costs being assigned to them are reasonable and do not cross-subsidize other customer groups. Thus, we find that making such allocations transparent is extremely meaningful.

F. Disclosure of Disposition of Excess Gas or Gas Acquired To Meet Deficiency by Contract Rate Category

17. INGAA raises the same objections to the reporting of the disposition of excess gas or the reporting of gas acquired to meet deficiencies that it raised regarding the reporting of the allocation of fuel used in compressor stations, LAUF, and fuel used in operations. Specifically, INGAA argues that,

> [t]he reporting of disposition of excess gas or the reporting of gas acquired to meet deficiencies on pages 521b and 521c (lines 38–65) by contract rate category would provide little benefit. A pipeline does not track disposition or acquisition of gas by categories of transportation contracts. Assignment to contract rate categories could be accomplished by utilizing an arbitrary allocation methodology. However, the allocation of a pipeline's system gas dispositions or acquisitions would not yield any meaningful information. Only the reporting of total dispositions or total acquisitions of system gas would produce a cogent result. Accordingly, INGAA requests rehearing and asks the Commission to allow pipelines to report total disposition or total acquisitions of system gas on pages 521b and 521c.[13]

18. As discussed above in paragraph 14, the allocations required by the Final Rule do not require an analysis of individual contracts. Moreover, while the allocations required by this rule may not be precise, few allocations are, and these allocations are routinely made for customer billing purposes.

19. The information reported in lines 38–65 would be useful in determining

[7] Order No. 710–B, 134 FERC ¶ 61,033 at P 37.

[8] *Id.* P 38.

[9] *Id.* P 39.

[10] INGAA states that ''[p]ipelines do track or allocate fuel consumed separately for incremental rate services in which the Commission in its orders has required the pipeline to keep the incremental rate customers' fuel costs and revenues separate. Other than for such very limited incremental rate purposes, however, pipelines are not required to allocate or track fuel used by individual contract even in general section 4 rate proceedings. In its orders approving pipelines' negotiated rate contracts, the Commission requires pipelines to separately account for the negotiated rate transaction's volumes, revenues, billing determinants, rate components and surcharges. But, the Commission does not require that fuel used, or any other cost for that matter, associated with negotiated rate transactions be separately accounted for.'' INGAA Rehearing at n.1. As discussed further in paragraph 21 below, this contention is incorrect because fuel use is a rate component.

[11] The Commission does not expect pipelines to develop and administer a process by which the fuel in each compressor, as it is burned, is assigned in some manner among individual shipper contracts.

[12] INGAA Rehearing at 3 & 8–9.

[13] INGAA Rehearing at 8.

among which classes of shippers over and under recoveries of fuel are occurring (*i.e.,* recourse, negotiated, or discounted customers). For example, recourse rate shippers could provide more fuel than necessary and negotiated rate shippers could have a capped fuel rate such that recourse shippers may be subsidizing negotiated rate shippers. The recourse rate shippers should be in a position to fully understand whether over recovered fuel for recourse rate contracts is being used to make up a deficiency of fuel for negotiated rate contracts. Similarly, shippers should be aware to the extent a pipeline is purchasing gas associated with a fuel deficiency attributable to negotiated rate contracts. Additionally, while generally more applicable to pipelines with stated fuel rates, shippers should be in a position to know whether the disposition of excess fuel is being sold or if the gas is used for imbalances such that pipelines are recovering the cost through periodic imbalance cashout reports. We find that reporting this information provides useful transparency regarding the amount of fuel used to operate compressor stations, the disposition of excess gas and how the deficiency was acquired, and how fuel costs and LAUF are allocated among customers. Consequently, we deny rehearing of this issue.

G. Discounted Rates as a Separate Category and Negotiated Rates as a Separate Category

20. INGAA reiterates its objection to reporting fuel assigned to discounted rates as a separate category, claiming that disclosing this information does not serve any regulatory purpose, because pipelines are prohibited from discounting fuel. Fuel expenses constitute a significant portion of the total expenses recovered by natural gas rates. Obscuring this information makes it harder for entities to track the reasonableness of these expenses. Contrary to INGAA's arguments, pipelines are not prohibited from discounting fuel under all circumstances.[14] In addition, the additional transparency provided by this Final Rule serves the important regulatory objective of assuring that rates are just and reasonable. If a pipeline is not discounting fuel then it should simply report zero in Column (K), Volume (in Dth) Not Collected. This approach provides an affirmative confirmation that fuel is not being discounted. Combining the discount rate category with negotiated rates would eliminate this confirmation. Consequently, we will retain the separate discount rate category.

21. Additionally, based on its contention that there is no cross-subsidy in instances where a negotiated rate customer pays the same fuel rate as a recourse rate customer, INGAA argues that there is no need to separate the reporting of recourse and negotiated rate contracts. The Commission has long required pipelines to separately account for rate components associated with negotiated rates.[15] We are not persuaded to modify that policy in this rule. Moreover, while INGAA points to certain circumstances where it argues that no cross-subsidy would occur, the reporting requirements of this rule apply to all negotiated rate contracts and thus INGAA's example does not suffice to contradict the need for this provision.

H. MidAmerican's Requested Clarification

22. INGAA argues that the Commission erred by not granting the clarification requested by MidAmerican (that the rule should only cover (1) Contracts with discounted and negotiated fuel rates and (2) headings should be changed to be ''discounted fuel rate'' and ''negotiated fuel rate''). INGAA argues this approach would be less burdensome but would accomplish the Commission's stated goals.

23. As we stated in Order No. 710–B,[16] the proposal to limit the scope of the rule to only require the reporting of fuel costs in contracts that include a specific provision for discounted or negotiated fuel would elevate form over substance and would omit contracts with negotiated and discounted rates, unless they include a specific provision covering discounted or negotiated fuel. This is contrary to the objective of the Final Rule of enhancing the transparency of fuel costs and we deny rehearing. Also, given our finding on the required reporting of gas contracts with discounted or negotiated fuel, we affirm our finding on the appropriate headings to be used.[17]

I. Excluded Contracts

24. INGAA argues that the Commission erred by assuming that MidAmerican's proposal would have excluded many contracts that otherwise would be reported. As we stated in Order No. 710–B, MidAmerican commented that, to its knowledge, very few discounted and negotiated rate agreements include a provision for discounted and negotiated fuel.[18] We concluded that, if this were true or if future contracts are written to make it true, then excluding the reporting of contracts not including a specific provision identifying discounted and negotiated fuel would be problematic.[19] INGAA argues that we erred in relying on MidAmerican's statement, but in no way rebuts it. Moreover, we were concerned that, even if contracts are not currently drafted in this fashion, future contracts could be rewritten to achieve this end and we do not wish to open this possibility. Accordingly, we deny INGAA's request for rehearing on this issue.

J. Start Date for New Data Collections

25. INGAA argues that the Final Rule orders the collection of data to begin too soon and that data under the new categories should not be required to be collected until calendar year 2012. We agree with INGAA that pipelines may not have the accounting systems in place to make the allocations of functionalized fuel by contract rate type required by the Final Rule and they may need to develop systems for making such allocations. We recognize some pipelines may not currently have in place the required accounting systems necessary to allocate fuel costs to negotiated, discounted and recourse transportation customers. In light of these considerations, we will grant rehearing and further delay the commencement of implementation of the filing requirements of the Final Rule until the fourth quarter period (''Q4'') of 2011. Thus, the data must be reported in the new format starting with the quarterly period October 1 through December 31, 2011 in Annual Report Forms 2 and 2–A with a due date of April 18, 2012. This should allow sufficient time for filers to develop the necessary data and perform the needed allocations. Individual pipeline companies may apply to the Commission for further extensions, based on their individual circumstances. Even if an extension is granted, the information will still be

[14] For example, in *Transwestern Pipeline Company,* 54 FERC ¶ 61,319, at 62,007 (1991), the Commission approved Transwestern's proposal to provide fuel discounts, provided that the minimum rate would not be lower than actual fuel costs, if any.

[15] *See, e.g., NorAm Gas Transmission Company,* 75 FERC ¶ 61,322, at 62,029 (1996); *Texas Eastern Transmission, LP,* 133 FERC ¶ 61,220, at P 19 (2010); *Gulf Crossing Pipeline Company LLC,* 123 FERC ¶ 61,100, at P 87 (2008).

[16] Order No. 710–B, 134 FERC ¶ 61,033 at P 55.

[17] *Id.* P 56.

[18] *Id.* P 53.

[19] *Id.* P 55.

required to be reported for the Q4 period of 2011 but, if an extension is granted, the due date for the filing of this information may be extended past the April 18, 2012 filing deadline. Pipeline companies seeking an extension must provide a detailed explanation of why (for example, an additional analysis of data is needed, or allocation factors are still being developed) they cannot meet the filing deadline. The Commission will evaluate these requests on a case-by-case basis, based on the facts presented.

K. Requested Clarification of Reported Backhaul Service

26. INGAA requests clarification that ''backhaul service offered under tariff'' means that, if the tariff does not include a ''backhaul'' rate schedule, then nothing need be reported for this.[20] A review of gas tariffs shows that many tariffs recover a charge for backhaul service, but do not necessarily provide for a separate backhaul rate schedule for that service. In many instances, the forwardhaul tariff permits backhaul service at or below the forwardhaul rate, with no separate backhaul rate schedule.[21] If we exclude these backhaul volumes, then total backhaul volumes would be understated for these transactions. Thus, we reject the argument that information on backhauls should be limited to those instances when the tariff includes a separate backhaul rate schedule. INGAA's requested clarification would keep needed information hidden and could encourage tariffs to be drafted in a manner to avoid the reporting of this information. We note that the discussion in Order No. 710–B at paragraph 52 was addressing the narrow instances, such as with reticulated gas systems, where it is not possible to clearly determine what is a backhaul and what is a forwardhaul. We did not intend this to restrict the reporting of backhauls in systems where the gas flow path can be determined. Put differently, if the pipeline is unable to determine whether the volume is forwardhaul or backhaul, then the volume can be reported entirely as forwardhaul. Accordingly, we affirm the findings we made on this subject at paragraphs 50–52 of Order No. 710–B and deny the requested clarification.

L. Need for Page 521d

27. Finally, INGAA argues that the Commission should retain the blank page 521d that we proposed in the June 2010 NOPR but omitted in Order No. 710–B. This omission was an oversight and we agree with INGAA that a filer would need this page to properly complete the Forms. Thus, we will correct this oversight and will include page 521d on the various forms.[22] We, likewise, are including pages 521a–d in the FERC Form Nos. 2/2–A/3–Q Submission Software System.

III. Information Collection Statement

28. The Office of Management and Budget's (OMB) regulations require approval of certain information collection requirements imposed by agency rules.[23] Previously, the Commission submitted to OMB the information collection requirements arising from Order No. 710–B and OMB approved those requirements.[24] In this order, the Commission is making no substantive changes to the content of the forms and the information that is required to be submitted. However, by adding in blank page 521d and re-estimating the reporting burden arising from Order No. 710–B, the Commission finds it necessary to make a formal submission to OMB for review and approval under section 3507(d) of the Paperwork Reduction Act of 1995.[25]

29. This order affects the following existing data collections:

Title: FERC Form No. 2, ''Annual Report for Major Natural Gas Companies''; FERC Form No. 2–A, ''Annual Report for Nonmajor Natural Gas Companies.

Action: Proposed information collection.

OMB Control Nos. 1902–0028 (FERC Form No. 2); 1902–0030 (FERC Form No. 2–A).

Respondents: Businesses or other for profit.

Frequency of responses: Annually (FERC Form Nos. 2 and 2–A).

Necessity of the information: The information maintained and collected under the requirements of 18 CFR 260.1 and 18 CFR 260.2 is essential to the Commission's oversight duties. The data previously reported in the forms did not provide sufficient information to the Commission and the public to permit an evaluation of the filers' jurisdictional rates. Since the triennial restatement of rates requirement was abolished and pipelines are no longer required to submit this information, the need for current and relevant data is greater than in the past.

30. Without the information required in Order No. 710–B, it is difficult for the Commission and the public to perform an assessment of pipeline costs, and thereby help to ensure that rates are just and reasonable. Order No. 710–B accounts for the possibility that multiple pipelines may be required to develop and implement new procedures in order to provide the data in the revised forms. In any event, we believe the additional information required in Order No. 710–B will allow the Commission and form users to better analyze pipeline fuel costs, an important component in assessing the justness and reasonableness of pipelines' rates.

Burden Statement: As indicated in the above discussion, INGAA contends that the Commission underestimated the burden associated with implementing the changes mandated in Order No. 710–B. In light of INGAA's arguments, the Commission acknowledges that some filers may have to modify existing systems in order to collect the necessary data. To account for this, the Commission estimates a one-time burden of 80 hours per filer. This will increase the burden as follows:

[20] In Order No. 710–B, the Commission added lines 66–68 to page 521. The lines request a separation of forwardhaul and backhaul throughput volumes in Dths for the quarter.

[21] *See Trailblazer Pipeline Co.,* 39 FERC ¶ 61,103, at 61,324 (1987), where we stated that, as backhaul volumes are included within the definition of transportation in section 284.1(a) of the Commission's regulations (18 CFR 284.1(a)), Trailblazer may perform backhaul service pursuant to its firm and interruptible rate schedules and we did not require Trailblazer to adopt a separate backhaul rate in that proceeding. We also note that, for example, the Iroquois Gas Transmission System, L.P., FERC Gas Tariff, at Section 13 of the General Terms and Conditions, Second Revised Sheet No. 76, provides for backhaul transportation service to be provided pursuant to the firm transportation service rate schedule and not under a separate backhaul rate schedule.

[22] This page is shown as an attachment to this order.

[23] 5 CFR 1320.11.

[24] OMB approved the information collections prescribed in Order No. 710–B on May 16, 2011 for FERC Form No. 2 (OMB Control No. 1902–0028, ICR# 201101–1902–001), FERC Form No. 2–A (OMB Control No. 1902–0030, ICR# 201101–1902–003) and FERC Form No. 3–Q (OMB Control No. 1902–0205, ICR# 201101–1902–004).

[25] 44 U.S.C. 3507(d).

Data collection form[26]	Number of respondents	One-time filing per respondent	Filings per year	One-time additional hours for this form
FERC Form No. 2	84	80	1	6,720
FERC Form No. 2–A	44	80	1	3,520
Totals				10,240

Information Collection Costs: 10,240 hours at $120/hour= $1,228,800.

31. *Internal Review:* The Commission has reviewed the proposed changes and has determined that the changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support associated with the information requirements.

32. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, e-mail: *DataClearance@ferc.gov,* phone (202) 502–8663, fax: (202) 273–0873]. For submitting comments concerning the collections of information and the associated burden estimates, please submit comments to FERC in this Docket No. and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4638, fax: (202) 395–7285]. Due to security concerns, comments should be sent electronically to the following e-mail address: *oira_submission@omb.eop.gov.* Please refer to OMB Control Nos. 1902–0028 (FERC Form No. 2), and 1902–0030 (FERC Form No. 2–A), and the docket number of this Final Rule in your submission.

IV. Regulatory Flexibility Act

33. The Regulatory Flexibility Act of 1980 (RFA)[27] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities.[28] However, the RFA does not define ''significant'' or ''substantial.'' Instead, the RFA leaves it up to an agency to determine the effect of its regulations on small entities.

34. In Order No. 710–B the Commission certified that the additional reporting requirements would not have a significant economic impact on a substantial number of small entities.[29] With the understanding that a one-time burden has now been added, the Commission affirms that the certification provided in Order No. 710–B remains accurate and no further justification is needed under the RFA.

The Commission orders:

(A) INGAA's request for rehearing is hereby denied in part and granted in part, as discussed in the body of this order.

(B) This order shall be published in the **Federal Register**.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[26] The FERC Form No. 3–Q (OMB Control No. 1902–0205) is not directly affected by the one-time burden increase because the filers will be making this one-time change in preparation for filing the FERC Form Nos. 2 and 2A in April 2012. It is expected that well before the date of the next FERC Form No. 3Q filing the one-time burden will have already been expended. However, the Commission intends to submit the FERC Form No. 3–Q to OMB for informational purposes.

[27] 5 U.S.C. 601–612.

[28] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. 15 U.S.C. 632. The Small Business Size Standards component of the North American Industry Classification System defines a small natural gas pipeline company as one whose total annual revenues, including its affiliates, are $6.5 million or less. 13 CFR parts 121, 201.

[29] Order No. 710–B, 134 FERC ¶ 61,033 at P 89–91.

Note: This attachment will not be published in the Code of Federal Regulations.

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr) / /	Year/Period of Report End of Year/Qtr

Shipper Supplied Gas for the Current Quarter (continued)

Amount Collected (Dollars)				Volume (in Dth) Not Collected					
Month 1 Discounted Rate Amount (f)	Month 1 Negotiated Rate Amount (g)	Month 1 Recourse Rate Amount (h)	Month 1 Total Amount (i)	Month 1 Waived Dth (j)	Month 1 Discounted Dth (k)	Month 1 Negotiated Dth (l)	Month 1 Total Dth (m)	Month 1 Account(s) Debited (n)	Month 1 Account(s) Credited (o)